

BETHEL LOCAL SCHOOL DISTRICT

Frequently Asked Questions About Transgender Students

Who is a transgender student?

A transgender student is a student who consistently and uniformly asserts a gender identity different from the sex assigned to the student at birth.

What are the rules with regard to restroom use?

The District respects the privacy and dignity of each and every student. The District allows a transgender student access to the facilities that he or she prefers, whether that is access to the sex segregated facilities with which the student identifies or providing more private alternatives (i.e., access to staff/unisex bathrooms) if the transgender student is uncomfortable using either sex-segregated bathroom. The District's primary aim is protecting the safety and privacy of all students. Any student who has a need or desire for increased privacy, regardless of the underlying reason, may request access to a private restroom.

How does the District decide what accommodations are appropriate for transgender students?

When the parent of a transgender student, or a transgender student, requests accommodations, the building administrator will meet with the parent, student and any other individuals with relevant information. The team will discuss the requested accommodations, the consistency and uniformity of the asserted gender identity and any supports needed to ensure equal access to and equal opportunity to participate in the District's education and co-curricular programs.

Specific requests and accommodations are determined on a case-by-case basis, after considering the circumstances. Working with transgender students and family, the administration will consider the following:

- ensuring the student has equal access to, and an equal opportunity to participate in, the District's education programs;
- student safety and comfort; and
- protecting student privacy and minimizing stigmatization of the student.

Has the Bethel Local Schools passed new Policies as a result of transgender issues?

No. The Bethel Local School District Board of Education has had policies pertaining to sex/gender discrimination and sexual harassment for years. A new policy is not necessary nor appropriate.

Does this mean that a student can decide one day to use the female restroom and the next to use the male restroom?

No. As explained above, accommodations are determined after considering the specific circumstances. Restroom accommodations will only be made for a transgendered student who consistently and uniformly asserts a gender identity different from the student's sex assigned at birth, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.

How can I be sure of my child's safety and privacy in the restroom?

District staff members supervise students, including during restroom breaks. Any student who has a need or desire for increased privacy, regardless of the underlying reason, may request access to a private restroom. The District is exploring the installation of floor to ceiling stall partitions in some restrooms in the school district.

Why does the District provide these accommodations?

First and foremost, the District wishes to respect the privacy and dignity of each student. The Bethel Local School District Board of Education has a policy prohibiting discrimination on the basis of sex (including sexual orientation and gender identity). The U.S. Department of Justice and the U.S. Department of Education have both opined that discrimination on the basis of gender identity is unlawful discrimination under Title IX of the Education Amendments of 1972 (“Title IX”), a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities.

As a result, the U.S. Department of Education, Office for Civil Rights (“OCR”) and the United States Department of Justice (“DOJ”) have stated that under Title IX, transgender students should be treated consistent with their gender identity for restroom access. Failure to follow these interpretations by OCR and DOJ risks protracted litigation and potential loss of federal funding. OCR is a federal agency that enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex. OCR investigates complaints of discrimination and issues findings. OCR has the authority to suspend, terminate or refuse to grant a public school district’s federal funding if the school district fails to comply with OCR’s interpretation of discrimination laws. OCR can also refer a matter to the DOJ for an enforcement action.

Further, several United States Courts of Appeals, including the Sixth Circuit Court of Appeals, in which Ohio is located, have determined that Title IX of the Educational Amendments of 1972 requires that transgender students be granted access to the restrooms and locker rooms of their sexual identification.

The United States Supreme Court, while not yet issuing a ruling on transgender school students using bathrooms of their sexual identification, in 2020 issued a ruling determining that transgender status is protected by the Federal Law against sex discrimination in the workplace (Title VII). Title VII and Title IX have similar prohibitions against discrimination. This ruling will have a significant impact on how the Supreme Court will rule on educational bathroom issues.

What action is the Board taking on this issue?

Consistent with the law, the Bethel Local School District Board of Education has a policy prohibiting discrimination on the basis of sex (including sexual orientation and gender identity). The administration is responsible for implementing Board policy consistent with law. That is what the administration is doing with respect to transgender students.

Is this a new issue for school districts?

No. School Districts throughout the United States have recognized transgender students, and the related issues, for several years.

Is this a new issue for the Bethel Local Schools?

No. The Bethel Local Schools have had transgender students prior to this current school year.

What about locker rooms?

Given the students’ state of undress in locker rooms, private changing/restroom stalls will be provided to a transgender student to allow for privacy.

How does the dress code apply to transgender students?

A transgender student is permitted to wear clothing of students of their identified gender and also are permitted to wear the same type of clothing other students are permitted to wear under dress code guidelines.

Can transgender students participate in extra-curricular activities and athletics?

Yes. With regard to athletics, in November 2014, the Ohio High School Athletic Association (“OHSAA”) adopted the following policy regarding transgender participation:

- A transgender female (or male-to-female (MTF) transgender student athlete) who is taking medically prescribed hormone treatment related to gender transition may participate on a boy’s team at any time. However, before a transgender female can compete in a girl’s sport or on a girl’s team, the transgender female must either (1) have completed a minimum of one year of hormone treatment related to gender transition or (2) demonstrate to the Commissioner’s Office by way of sound medical evidence that the transgender female student athlete does not possess physical (bone structure, muscle mass, testosterone, hormonal, etc.) or physiological advantages over genetic females of the same age group.
- A transgender male (or female-to-male (FTM) transgender student athlete) who has not yet begun medically prescribed testosterone treatment for purposes of gender transition may compete on a boy’s team. If, however, the transgender male student athlete is taking medically prescribed testosterone treatment, medical evidence must be submitted to the Commissioner’s Office that certifies that (1) the muscle mass developed as a result of this testosterone treatment does not exceed the muscle mass that is typical of an adolescent genetic boy; (2) that the student has not started any hormone treatment (or that the testosterone treatment does not cause hormone levels to exceed normal levels); and (3) the student’s hormone levels are monitored by a licensed physician every three to six months.

The complete, current policy is available at:

<https://www.ohsaa.org/Portals/0/Eligibility/OtherEligibilityDocs/TransgenderPolicy.pdf>.

Who are the transgender students at Bethel Local Schools?

Each student’s privacy rights under the Family Educational Rights and Privacy Act (“FERPA”) and R.C. 3319.321 must be respected. Teachers and other school officials cannot reveal information about a student’s transgender status unless the student’s parents (or the student if over 18) consent to such a disclosure.

How can students safely express their views?

The District recognizes the First Amendment rights of students and community members to express their opinions and beliefs. However, while at school, students’ expression cannot cause a disruption to the educational process or attempt to disrupt the educational process. The classrooms at Bethel Local Schools are places for learning, and the District’s focus will be on educating all of its students. The District asks that any discourse remain civil; however, the District prohibits bullying, harassment, intimidation and discrimination of students. Guidance counselors are available to all students for further discussion or for help reporting bullying, harassment, intimidation or discrimination.

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